

Joint Standing Committee on Labor

LD 7

Resolve, Regarding Legislative Review of Chapter 15: Rules Relating to Severance Pay, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards

RESOLVE 12

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-107

LD 7 proposed to approve Chapter 15: Rules Relating to Severance Pay, a major substantive rule of the Department of Labor, Bureau of Labor Standards.

Committee Amendment "A" (H-107) proposed to approve adoption of Chapter 15: Rules Relating to Severance Pay by the Department of Labor, Bureau of Labor Standards with 2 changes:

1. The amendment proposed to strike out the emergency preamble and emergency clause of the resolve; and
2. The amendment proposed to require modification of Chapter 15 to provide that, if the director's determination of a covered establishment's date of termination or relocation is based primarily on the fact that the covered establishment has on that date reduced its number of employees, number of work hours or production to less than 50% of that of the same time period one year earlier, the director's determination is a presumption that may be overcome by evidence that the covered establishment's operations did not substantially cease on that date.

Enacted law summary

Resolve 2005, chapter 12 approves adoption of Chapter 15: Rules Relating to Severance Pay, a major substantive rule of the Department of Labor, Bureau of Labor Standards, but requires the following modification: if the director's determination of a covered establishment's date of termination or relocation is based primarily on the fact that the covered establishment has on that date reduced its number of employees, number of work hours or production to less than 50% of that of the same time period one year earlier, the director's determination is a presumption that may be overcome by evidence that the covered establishment's operations did not substantially cease on that date.

LD 31

An Act To Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2006

**P & S 1
EMERGENCY**

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-29

LD 31 proposed to approve the Maine State Retirement System's personal services costs and its costs for all other operating expenses for fiscal year 2005-06, including the attribution of expenses to the 3 retirement system member and employer categories: General Fund; Non-General Fund; and Participating Local District.

The bill also proposed to approve the retirement system's use of \$200,000 to begin funding for a multi-million dollar expenditure to replace aging and soon-to-be-desupported benefits payroll technology.

Committee Amendment "A" (H-29) proposed to incorporate a fiscal note.

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Enacted law summary

Private and Special Law 2005, chapter 1 approves the Maine State Retirement System's personal services costs and its costs for all other operating expenses for fiscal year 2005-06, including the attribution of expenses to the 3 retirement system member and employer categories: General Fund; Non-General Fund; and Participating Local District, as well as the approval of the retirement system's use of \$200,000 to begin funding for a multimillion dollar expenditure to replace aging and soon-to-be-desupported benefits payroll technology.

Private and Special Law 2005, chapter 1 was enacted as an emergency measure effective April 1, 2005.

LD 54 An Act To Reduce Workers' Compensation Costs for Small ONTP Business Employers

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATSON	ONTP	

LD 54 proposed to provide an employer of 6 or fewer employees with exempt status under the Workers' Compensation Act of 1992 if the employer maintains employer's liability insurance and medical payments coverage and provides health coverage for its employees through Dirigo Health Insurance or through a policy that provides benefits equal to or greater than those provided through Dirigo Health Insurance.

LD 93 An Act Concerning Disability Retirement Benefits under the ONTP Maine State Retirement System

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO	ONTP MAJ	
HUTTON	OTP-AM MIN	

LD 93 proposed to make the changes concerning disability retirement benefits under the Maine State Retirement System made by Public Law 2003, chapter 675 retroactive to January 1, 2000.

Committee Amendment "A" (S-82) proposed to incorporate a fiscal note.

LD 145 An Act Concerning Appeal Rights under the Maine Enterprise PUBLIC 39 Option Program

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP	
SMITH W		

LD 145 proposed to permit an individual to file an appeal to the Maine Unemployment Insurance Commission in the case of a disagreement with a decision concerning the Maine Enterprise Option program rendered by the

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Division of Administrative Hearings. Current law pertaining to the Maine Enterprise Option program only references the ability for someone to appeal eligibility decisions to the Department of Labor, Division of Administrative Hearings; no second level of appeal is afforded, unlike all other unemployment programs under Maine law. LD 145 proposed to make appeal rights under the Maine Enterprise Option program consistent with that afforded to all other unemployment insurance programs.

Enacted law summary

Public Law 2005, chapter 39 permits an individual to file an appeal to the Maine Unemployment Insurance Commission in the case of a disagreement with a decision concerning the Maine Enterprise Option program rendered by the Division of Administrative Hearings. Prior law pertaining to the Maine Enterprise Option program only referenced the ability for someone to appeal eligibility decisions to the Department of Labor, Division of Administrative Hearings; no second level of appeal was afforded, unlike all other unemployment programs under Maine law. Public Law 2005, chapter 39 makes appeal rights under the Maine Enterprise Option program consistent with that afforded to all other unemployment insurance programs.

LD 156 **An Act To Adjust the Wage Base for the Unemployment Compensation System** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 156 proposed to amend the definition of "wages" and establish a new wage base for the unemployment compensation system that would apply to wages beginning on January 1, 2006.

LD 184 **An Act To Improve Prevailing Wage Standards in Maine** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK	ONTP MAJ	
STRIMLING	OTP-AM MIN	

LD 184 proposed to clarify that in publicly funded construction projects under the jurisdiction of the federal Davis-Bacon Act or other federal act, minimum wages and benefits are the higher of the federal and state rates.

Committee Amendment "A" (H-375) proposed to incorporate a fiscal note.

LD 190 **An Act Relating to the Treatment of Employers and Military Personnel in Connection with "Call to Duty" Activity** **PUBLIC 40**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FISHER	OTP-AM	H-26
BARTLETT		

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LD 190 proposed to relieve employers of unemployment benefit charges resulting from layoffs that occur as a result of personnel returning from military leaves of absence. Specifically, the bill proposed to address the situation in which an employer, pursuant to existing legal requirements, holds a position for a worker who is called to active duty, but needs to hire a replacement worker to keep the business going until the former employee returns. If the return of the active military personnel causes the replacement worker to be laid off, the laid-off worker receives unemployment benefits; this bill proposed to relieve the employer of any charges to the employer's unemployment tax experience rating due to this situation. LD 190 also proposed to clarify the law concerning the right of National Guard and reserve members on military leave of absence to retain normal vacation, sick leave, bonus, advancement and any other benefits related to normal employment in those employees' particular positions.

Committee Amendment "A" (H-26) proposed to eliminate the provisions of the bill that purported to clarify the rights of National Guard and reserve members to retain normal benefits while on military leave of absence.

Enacted law summary

Public Law 2005, chapter 40 relieves employers of unemployment benefit charges resulting from layoffs that occur as a result of personnel returning from military leaves of absence. The law addresses the situation in which an employer, pursuant to existing legal requirements, holds a position for a worker who is called to active duty, but needs to hire a replacement worker to keep the business going until the former employee returns. If the return of the active military personnel causes the replacement worker to be laid off, the laid-off worker receives unemployment benefits; this law relieves the employer of any charges to the employer's unemployment tax experience rating due to this situation.

LD 209

An Act To Authorize the Maine State Retirement System To Provide Names and Addresses to Public Retiree Organizations

PUBLIC 149

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	OTP-AM MAJ	H-153
STRIMLING	ONTP MIN	

LD 209 proposed to allow the Maine State Retirement System to provide the names and addresses of retirees to nonprofit or public organizations established to provide programs and services to Maine public sector retirees. The bill also proposed to repeal the waiver provision in the current law.

Committee Amendment "A" (H-153) proposed to allow the home address of a Maine State Retirement System retiree, until September 15, 2007, to be disclosed to nonprofit or public retiree organizations for recruitment purposes unless the retiree "opts out" from authorizing this disclosure on a form provided by the retirement system. The amendment also proposed that, beginning September 15, 2007, the information again would become confidential unless the retiree "opts in" by signing a waiver of confidentiality. The amendment also proposed to require the retirement system to deny information in the future to an organization that obtained information for the purpose of membership recruitment but used the information for another purpose.

Enacted law summary

Public Law 2005, chapter 149 allows the home address of a Maine State Retirement System retiree, until September 15, 2007, to be disclosed to nonprofit or public retiree organizations for recruitment purposes unless

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the retiree "opts out" from authorizing this disclosure on a form provided by the retirement system. Beginning September 15, 2007, the information again becomes confidential unless the retiree "opts in" by signing a waiver of confidentiality. The law also requires the retirement system to deny information in the future to an organization that obtained information for the purpose of membership recruitment but used the information for another purpose.

LD 214 **An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level** **PUBLIC 255**

<u>Sponsor(s)</u> PINEAU BRYANT B	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 214 proposed to provide that the minimum salary level for the purposes of exemption from overtime requirements for a bona fide executive, administrative or professional employee is 3,000 times the state minimum wage or the salary level set by the United States Department of Labor, whichever is higher. This change would align the state law with the current federal regulations in this regard.

Enacted law summary

Public Law 222, chapter 255 provides that the minimum salary level for the purposes of exemption from overtime requirements for a bona fide executive, administrative or professional employee is 3,000 times the state minimum wage or the salary level set by the United States Department of Labor, whichever is higher. This change aligns state law with the current federal regulations in this regard.

LD 215 **An Act To Clarify National Labor Relations Board Certification under the Overtime Provisions** **ONTP**

<u>Sponsor(s)</u> JACKSON PERRY J	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 215 proposed to clarify that the minimum wage exemption granted by the Maine Revised Statutes, Title 26, section 664, subsection 3, paragraph I applies to labor organizations recognized by employers as well as those certified by the National Labor Relations Board.

LD 235 **An Act To Increase the Minimum Wage** **CARRIED OVER**

<u>Sponsor(s)</u> TUTTLE BRYANT B	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 235 proposed to increase the minimum wage to \$7.00 per hour over a 2-year period.

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This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 257

An Act To Require Notice prior to Decreases in Wage or Salary Rates

PUBLIC 18

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	OTP-AM MAJ	H-30
STRIMLING	ONTP MIN	

LD 257 proposed to require an employer to notify employees at least one pay period in advance of any decrease in pay. It also proposed to provide an exception for changes made under a collective bargaining agreement.

Committee Amendment "A" (H-30) proposed to require employers to notify employees, including salaried employees, one working day prior to a decrease in pay taking effect, replacing the bill's requirement that notice be given one pay period in advance. The amendment also proposed to add language specifically excluding the notice requirement in cases when an employer temporarily increases an employee's wage rate to comply with prevailing wage requirements and to change the title of the bill.

Enacted law summary

Public Law 2005, chapter 18 requires employers to notify employees, including salaried employees, one working day prior to a decrease in pay taking effect. The law provides exceptions for changes in wages made under a collective bargaining agreement and for cases in which an employer temporarily increases an employee's wage rate to comply with prevailing wage requirements.

LD 284

An Act To Increase Retired Teachers' Insurance Benefits

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CANAVAN	ONTP	
MITCHELL		

LD 284 proposed to increase the State's contribution for health insurance for retired educators from 40% to 45% after July 31, 2005.

LD 284 was reported out as "ought not to pass" in light of the enactment of Public Law 2005, chapter 12, part X and Public Law 2005, chapter 457, part TT, which increase the state's contribution for health insurance for retired educators from 40% to 45% as of January 1, 2006.

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LD 302

An Act To Encourage Parties To Agree to the Selection of Independent Medical Examiners in Workers' Compensation Cases

PUBLIC 24

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-20

LD 302 proposed to encourage parties in a workers' compensation case to agree to the selection of independent medical examiners by establishing that, whether or not the parties have agreed to the selection of an independent medical examiner, the examiner's findings must be adopted unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings.

Committee Amendment "A" (S-20) proposed to allow a physician who has examined an employee at the request of an insurance company, employer or employee during the previous 52 weeks to serve as an independent medical examiner if agreed upon by the parties to the workers' compensation claim.

Enacted law summary

Public Law 2005, chapter 24 encourages parties in a workers' compensation case to agree to the selection of independent medical examiners by establishing that, whether or not the parties have agreed to the selection of an independent medical examiner, the examiner's findings must be adopted unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings. The law also allows a physician who has examined an employee at the request of an insurance company, employer or employee during the previous 52 weeks to serve as an independent medical examiner if agreed upon by the parties to the workers' compensation claim.

LD 309

An Act To Amend the Sunset on Part-time Unemployment Insurance Benefits

PUBLIC 454

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W	OTP-AM MAJ	H-33
STRIMLING	ONTP MIN	H-402 SMITH W S-318 STRIMLING

LD 309 proposed to remove the sunset on the expansion of unemployment benefit eligibility to workers who have a primary history of part-time work, who are laid off and are only able and available for comparable part-time work. The language expanding those benefits took effect on January 1, 2004 and is scheduled to sunset on September 30, 2005 unless legislation is passed to make the program permanent.

Committee Amendment "A" (H-33) proposed to add an appropriations and allocations section to the bill.

House Amendment "C" (H-402) proposed to direct the Department of Labor to develop as a pilot program an education and training program for unemployed part-time workers that is designed to enhance the employability and economic security of those workers. The amendment proposed that, in designing the pilot program, the department be directed to develop methods to facilitate the participants' efficient transition from receiving compensation under the unemployment compensation insurance system to obtaining new job placements and to minimize the impact on the Unemployment Trust Fund from extending unemployment compensation benefits to

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unemployed part-time workers. The amendment also proposed to direct the department to report its results to the Joint Standing Committee on Labor by January 15, 2006.

Senate Amendment "B" to Committee Amendment "A" (S-318) proposed to retain the sunset provision but extend it for 3 years until September 30, 2008.

Enacted law summary

Public Law 2005, chapter 454 extends until September 30, 2008 the sunset on the expansion of unemployment benefit eligibility to workers who have a primary history of part-time work, who are laid off and are only able and available for comparable part-time work. The language expanding those benefits in prior law took effect on January 1, 2004 and was scheduled to sunset on September 30, 2005 until chapter 454 was enacted. Additionally, chapter 454 directs the Department of Labor to develop as a pilot program an education and training program for unemployed part-time workers that is designed to enhance the employability and economic security of those workers. In designing the pilot program, the department is directed to develop methods to facilitate the participants' efficient transition from receiving compensation under the unemployment compensation insurance system to obtaining new job placements and to minimize the impact on the Unemployment Trust Fund from extending unemployment compensation benefits to unemployed part-time workers. The department is directed to report its results to the Joint Standing Committee on Labor by January 15, 2006.

LD 322

An Act To Amend the Process for Review of Hearing Officer Decisions by the Workers' Compensation Board

PUBLIC 25

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 322 proposed to extend the time within which a hearing officer may request review of a decision by the full Workers' Compensation Board to allow for the filing of motions to find the facts specially and state separately the conclusions of law.

Enacted law summary

Public Law 2005, chapter 25 extends the time within which a hearing officer may request review of a decision by the full Workers' Compensation Board to allow for the filing of motions to find the facts specially and state separately the conclusions of law.

LD 350

An Act To Provide Funding To Allow Veterans Who Received Certain Combat Medals To Purchase Subsidized Service Time towards Their Retirement

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAMPBELL NASS R	OTP-AM	H-32

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LD 350 proposed to allow members of the Maine State Retirement System with at least 15 years of creditable service who served in the Armed Forces of the United States to purchase service credit for the time spent in the armed forces at a subsidized cost, whether or not the military time was during a federally recognized period of conflict or the member was awarded a campaign or expeditionary medal.

Committee Amendment "A" (H-32) proposed to replace the bill. The amendment proposed to appropriate funds to the Maine State Retirement System for the purposes of Public Law 2003, chapter 693, which enables veterans who received certain combat or expeditionary medals to purchase military service credit toward retirement at a subsidized rate.

This bill was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

LD 378 **An Act Authorizing the Commissioner of Labor To Negotiate Settlements in Cases of Overpayment of Unemployment Compensation** **ONTP**

<u>Sponsor(s)</u> DAVIS G BRENNAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 378 proposed to grant the Commissioner of Labor the authority to negotiate settlements waiving or restructuring the repayment of all or any portion of erroneously paid unemployment benefits, similar to the Maine Unemployment Insurance Commission's authority, under current law, to grant a waiver to a person for repayment of erroneously paid benefits. The bill proposed to leave intact the authority of the Maine Unemployment Insurance Commission to grant waivers.

LD 393 **An Act To Amend the Laws Governing Bargaining Agents for Public Universities and Colleges** **ONTP**

<u>Sponsor(s)</u> AUSTIN SNOWE-MELLO	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 393 proposed to clarify the laws governing bargaining agents for employees at public universities and colleges in Maine as follows:

1. Public universities and colleges in this State would be required to recognize and accept an employee and the employee's attorney as the grievant and representative, as well as the bargaining agent, for purposes of a grievance proceeding;
2. If requested by an employee, the bargaining agent would be required to fairly represent the employee at every step of the grievance process;

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3. An employee who elects to proceed with a grievance without representation by the bargaining agent would have all of the rights to pursue the grievance that the bargaining agent would have had;
4. The role of the bargaining agent would be set forth, both in instances in which the employee has requested representation by the bargaining agent and instances in which the employee has declined such representation; and
5. The issue of potential conflicts of interest would be addressed.

LD 396

An Act To Amend the Laws Concerning the Maine State Retirement System

PUBLIC 238

<u>Sponsor(s)</u>	<u>Committee Report</u>		<u>Amendments Adopted</u>
SMITH W	OTP	MAJ	
	ONTP	MIN	

LD 396 proposed to authorize the Maine State Retirement System to employ a general counsel and, with the approval of the Attorney General, assistant counsel. The bill proposed to require that the Maine State Retirement System's executive director and the Attorney General agree on the duties of any such positions by entering into a memorandum of understanding.

Enacted law summary

Public Law 2005, chapter 238 authorizes the Maine State Retirement System to employ a general counsel and, with the approval of the Attorney General, assistant counsel. The law requires that the Maine State Retirement System's executive director and the Attorney General agree on the duties of any such positions by entering into a memorandum of understanding.

LD 423

An Act To Allow Food Service Workers for Public Schools To Collect Unemployment Benefits

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>		<u>Amendments Adopted</u>
CRAVEN	ONTP	MAJ	
MARTIN	OTP-AM	MIN	

LD 423 proposed to make a food service worker in a public school eligible to collect unemployment benefits in between 2 academic years, even if the worker has received written assurance that the worker will be employed by the school as a food service worker in the 2nd academic year.

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LD 425

An Act To Amend the Laws Relating to Unemployment Compensation

PUBLIC 35

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FISCHER	OTP-AM	H-31

LD 425 proposed to amend the exemption from the definition of "employment," for the purposes of unemployment compensation and insurance, as it relates to the delivery and distribution of periodicals. Under current law, only those delivery or distribution workers who deliver directly to consumers fall within the exemption. LD 425 proposed to expand the exemption to include workers that deliver bundles of periodicals to businesses and the like, thereby making state law consistent with federal law governing social security and unemployment taxes.

Committee Amendment "A" (H-31) proposed to replace the bill. The amendment proposed to clarify the exemption to the definition of "employment," for the purposes of unemployment compensation and insurance, as it relates to the delivery and distribution of periodicals by replacing the term "periodicals" with the term "newspapers or magazines."

Enacted law summary

Public Law 2005, chapter 35 clarifies the exemption from the definition of "employment," for the purposes of unemployment compensation and insurance, concerning the delivery and distribution of periodicals by replacing the term "periodicals" with the term "newspapers or magazines."

LD 430

An Act To Modify the Obligation To Bargain under the Municipal Public Employees Labor Relations Law CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORTON EDMONDS		

LD 430, a concept draft pursuant to Joint Rule 208, proposed to modify the obligations of public employers and their employees to bargain collectively, as is currently required under the Maine Revised Statutes, Title 26, section 965.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 435

An Act To Conform Maine Law to Federal Overtime Standards

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKANE SNOWE-MELLO	ONTP MAJ OTP MIN	

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LD 435 proposed to conform Maine overtime laws to those of the federal Fair Labor Standards Act and to require that rules adopted by the Director of Labor Standards within the Department of Labor conform to regulations adopted pursuant to the federal Fair Labor Standards Act, including the "white-collar exemptions" that became effective on August 23, 2004.

LD 445 **An Act To Index the Minimum Wage for Inflation and To Permit
a Training Wage for Workers under 17 Years of Age** **ONTP**

<u>Sponsor(s)</u> MILLS P		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 445 proposed to index the hourly minimum wage to the rate of inflation. The hourly minimum wage, currently scheduled to increase from \$6.35 per hour to \$6.50 per hour beginning October 1, 2005, would be adjusted every 3 years, beginning October 1, 2006, to reflect the rate of inflation for the previous 3 years. LD 445 also proposed to establish a training wage, which is a minimum wage for employees under 17 years of age. The training wage would be the federal minimum wage, which is currently \$5.15 per hour.

LD 485 **An Act To Prohibit Permanent Replacement Workers** **ONTP**

<u>Sponsor(s)</u> PINEAU BRYANT B		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 485 proposed to prohibit an employer from refusing to rehire an employee who was on strike or was locked out of employment if the reason for the refusal is that a replacement employee had been hired during the strike or lockout. Current federal case law allowing in some instances replacement workers to permanently replace workers who were on strike or were locked out is based on dicta from a case decided by the United States Supreme Court in 1938, NLRB v. Mackay Radio & Tel. Co., 304 U.S. 333.

LD 487 **An Act Concerning Payment of Health Insurance Premiums for
Surviving Spouses of Maine State Retirement System Members** **PUBLIC 67**

<u>Sponsor(s)</u> DAVIS G		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-122
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LD 487 proposed to direct the Board of Trustees of the Maine State Retirement System to reimburse the surviving spouse of a Maine State Retirement System member for any health insurance premiums paid by the surviving spouse that exceed 40% of the retirement benefits received. The bill also proposed to authorize the board to adopt routine technical rules for implementation.

Committee Amendment "A" (H-122) proposed to replace the bill. The amendment proposed to guarantee that a spouse or other dependents of a retiree enrolled in the group health plan may continue coverage under the plan

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after the death of the retiree by making the premium payments for the cost of that coverage. This protection is similar to current law covering spouses and other dependents of state employees who die while in employment.

Enacted law summary

Public Law 2005, chapter 67 guarantees that a spouse or other dependents of a retiree enrolled in the State's group health plan may continue coverage under the plan after the death of the retiree by making the premium payments for the cost of that coverage. This protection is similar to the law covering spouses and other dependents of State employees who die while in employment.

LD 490 An Act To Eliminate the Offset for Social Security and Certain ONTP
Other Pensions for Unemployment Benefits

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAMPBELL	OTP-AM MAJ	
ANDREWS	ONTP MIN	

LD 490 proposed to eliminate the pension offset against unemployment benefits for persons who receive Social Security or any other pension or plan to which the individual made at least 50% of the contributions. As under current law, if the person contributed some amount to the pension, but less than 50%, the offset would be made after deduction of that portion of the pension that is directly attributable to the percentage of the contributions made to the pension by that person.

LD 493 An Act To Require That All Public School Employees Be Paid a ONTP
Livable Wage Rate

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS G	ONTP MAJ	
	OTP-AM MIN	

LD 493 proposed to require that all employees of school administrative units in Maine be paid at least a livable wage rate, which means an amount sufficient to meet the costs of the basic necessities of life. The bill also proposed to establish a method for future periodic updating of the livable wage amount and procedures for the distribution of targeted funds to ensure that no public school employee in Maine will be paid at a wage rate that is insufficient to meet the costs of the basic necessities of life.

Committee Amendment "A" (H-187), which was the minority report of the committee and was not adopted, proposed to require the State to fully fund the additional costs of raising school employees' rates of pay to the livable wage rate required by the bill.

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LD 515

An Act To Increase the Limit on the Right To Rejoin the Maine State Retirement System

PUBLIC 76

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOGAN	OTP-AM MAJ	H-106
DAMON	ONTP MIN	

LD 515 proposed to increase the limit on the right to rejoin the Maine State Retirement System from one occurrence to 2 occurrences.

Committee Amendment "A" (H-106) proposed to incorporate a fiscal note.

Enacted law summary

Public Law 2005, chapter 76 increases the limit on the right to rejoin the Maine State Retirement System from one occurrence to 2 occurrences.

LD 520

An Act To Improve Binding Arbitration in Public Sector Labor Relations

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	ONTP	
BRYANT B		

LD 520 proposed to make arbitration by municipal and county employees and employees of sheriff's departments, police departments and professional fire departments binding with respect to monetary matters as well as all other matters.

LD 540

An Act To Clarify the Rate of Interest on Awards for Workers' Compensation Benefits

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 540 proposed to resolve conflicts and uncertainties about payment of interest on overdue workers' compensation benefits. Current law identifies 2 different rates: 10% and 6%. The bill proposed to implement for workers' compensation cases a single rate of one percent per month and to give a grace period for the month in which each benefit first accrues. The bill also proposed to make clear that the same rate would apply to both medical bills and wage benefits included within the award, and to apply this uniform method of calculation prospectively to all workers' compensation obligations newly arising after the effective date of the bill, and to old injuries as well as new.

The bill further proposed to simplify the calculation process. Because both wage and medical benefits accrue in small increments, usually from week to week, calculating interest on each installment separately is difficult and

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time-consuming. Under the bill, benefits payable within each calendar month would be treated as a single award with interest to accrue only from the end of the month forward.

LD 546 **An Act to Promote Responsible Contracting Practices on State Projects** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM MAJ	
DUPLESSIE	ONTP MIN	

LD 546 proposed to require an employer on a state project to possess a federal and state tax identification number, be bonded, carry liability insurance and follow state requirements for unemployment and workers' compensation insurance. The bill further proposed to require the employer to provide its employees health insurance that is Dirigo Health or the equivalent of that of state employees and construction industry safety training as provided by the United States Department of Labor, Occupational Safety and Health Administration, and to participate in an apprenticeship program or equivalent training program to train construction workers.

Committee Amendment "A" (S-112), which was the majority amendment of the committee and was not adopted, proposed to replace the bill and change the title of the bill. The amendment proposed to provide that, in collecting information from employers and determining the prevailing rate for health insurance, the Department of Labor, Bureau of Labor Standards must assume that an employer pays costs for health insurance at a rate that is either the median rate for small group health insurance, including Dirigo Health, or at the rate the employer actually pays for health insurance, whichever is higher. This amendment also proposed to add an appropriations and allocations section.

LD 569 **An Act To Correct an Inequity in Calculating Maine State Retirement Benefits** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO	ONTP	
HUTTON		

LD 569, a concept draft pursuant to Joint Rule 208, proposed to correct an inequity in current law, which provides that if a person receives disability benefits while a Maine State employee, the receipt of those disability benefits has an adverse effect on how that person's retirement benefit will be calculated. The bill proposed to calculate a person's Maine State Retirement System benefits to eliminate this adverse effect.

Joint Standing Committee on Labor

LD 573

An Act To Generate Savings in the Unemployment Compensation Fund

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLUKEY MILLETT	ONTP	

LD 573 proposed to require the reduction of unemployment benefits to any individual who receives an indemnity payment as part of a workers' compensation lump sum settlement. The bill proposed that the indemnity portion of the workers' compensation lump sum settlement would be prorated and applied in a reasonable manner that may include application to weeks both before and after the date of the receipt of the settlement.

LD 579

An Act To Supplement Benefits for State Employees and Teachers Whose Pensions Are Subject to Reductions Enacted in 1993

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

LD 579, a concept draft pursuant to Joint Rule 208, proposed to create a new defined contribution plan as a supplemental benefit for those state employees and teachers who are in service under the Maine State Retirement System, or MSRS, on or after January 1, 2006. The new plan would not cover any member who was in service with 10 years of creditable service on July 1, 1993; any member covered by the 1998 Special Plan; or any member covered by the plan for Maine State Police Officers.

Contributions to the plan would be calculated at the rate of 2% of an employee's salary or wages earned after December 31, 2005. The amount would be deducted from the employee's existing required contribution to the MSRS, but the employee's defined benefits under MSRS will not be diminished. The added cost of maintaining the employee's defined benefits would be allocated to the employer's share of the pension contribution. For state employees, the added cost would be apportioned across the entire payroll for state employees covered under MSRS, whether or not they are also covered by the new plan.

Amounts contributed to the plan would be managed by MSRS for the benefit of each employee in a nonlapsing fund. Each employee's share of the fund would be tax-sheltered and portable as provided in Section 457 and other provisions of the United States Internal Revenue Code. Each employee's accumulated contributions and net earnings would be nonlapsing and could be withdrawn or rolled over in accordance with the United States Internal Revenue Code when the employee dies, retires or departs from state service but only in the form of an annuity to be paid for the life of the employee or the employee's spouse. The employee would have a range of annuity options for payment of benefits to the employee or the employee's spouse.

Joint Standing Committee on Labor

LD 583

**An Act To Amend the Law Regarding the Use of "Hearing Dogs"
by Deaf and Hard-of-hearing Persons**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS PERCY	ONTP	

LD 583 proposed to eliminate the requirement in current state law that the Department of Labor, Bureau of Rehabilitation Services issue a card identifying certain dogs as having been "especially trained" as guide dogs for deaf or hard-of-hearing persons. The bill also proposed to remove the requirements that the owner of the dog carry the card and that the "hearing dog" wear a hunter orange collar and leash.

LD 659

**An Act To Allow for Equitable Recovery of Wages for Employees
Who Are Not Paid in Full**

PUBLIC 103

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON BRYANT B	OTP-AM	H-158

LD 659 proposed to allow an employee to recover wages from an employer when the employee has been undercompensated due to an error of the employer.

Committee Amendment "A" (H-158) proposed to replace the bill. The amendment proposed to clarify that an employee may recover wages from an employer when the employer has not paid the employee in full.

Enacted law summary

Public Law 2005, chapter 103 clarifies that an employee may recover wages from an employer when the employer has not paid the employee in full.

LD 721

An Act To Make the Minimum Wage a Livable Wage

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDER	ONTP MAJ OTP-AM MIN	

LD 721 proposed to require that state employees, employees of entities with whom the State contracts and employees of businesses that receive grant payments, tax credits, tax reimbursement or tax forgiveness from the State receive a "livable" wage.

Joint Standing Committee on Labor

LD 730

An Act To Require Proof of Equipment Ownership for Employers Using Foreign Laborers

PUBLIC 461

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	OTP-AM MAJ	H-372
STRIMLING	ONTP MIN	H-708 CUMMINGS

LD 730 proposed to require an employer who hires a foreign worker working in the United States under what is commonly known as an "H-2B visa" to provide proof of ownership of any equipment used by that worker, on a form to be provided by the Commissioner of Labor. The bill proposed to set fines for violations at no less than \$1,000 and no more than \$5,000 per violation.

Committee Amendment "A" (H-372), which was the majority report of the committee, proposed to specify that:

1. Proof of equipment ownership is necessary only for an employer who is employing a bond worker in a logging occupation;
2. Proof of ownership of at least one piece of logging equipment is required for every 2 bond workers employed in logging occupations; and
3. Proof of ownership must include a receipt for payment of the equipment.

House Amendment "A" to Committee Amendment "A" (H-708) proposed to require the employer of a bond worker to provide, as part of proof of equipment ownership, documentation of any property taxes on equipment used by the bond worker paid by the employer during the year in which the bond worker was employed. The amendment also proposed to exempt from the proof of ownership requirements any equipment for which a federal prevailing wage has been established and to change the rulemaking authorized in the bill to major substantive.

Enacted law summary

Public Law 2005, chapter 461 requires an employer who hires a foreign worker in a logging occupation working in the United States under what is commonly known as an "H-2B visa" to provide proof of ownership of any equipment used by that worker, on a form to be provided by the Commissioner of Labor, including a receipt for payment of the equipment and documentation of any property taxes on equipment used by the bond worker paid by the employer during the year in which the bond worker was employed. Further, the law specifies that proof of ownership of at least one piece of logging equipment is required for every 2 bond workers employed in logging occupations. The law also sets fines for violations at no less than \$1,000 and no more than \$5,000 per violation, and expressly exempts from the proof of ownership requirements any equipment for which a federal prevailing wage has been established. Finally the law authorizes major substantive rulemaking.

Joint Standing Committee on Labor

LD 748

Resolve, Establishing the Commission To Study Retirement Eligibility and Benefits for Corrections Officers, Certain Other Law Enforcement Officers and Mental Health Workers

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GAGNON DUPLESSIE		S-311 STRIMLING S-68

LD 748, a concept draft pursuant to Joint Rule 208, proposed to create parity between retirement benefits for corrections officers and mental health workers by adding direct-care mental health workers in the Department of Health and Human Services to the 1998 Special Plan. Under that plan, a worker qualifies for service retirement benefits if that worker either is 55 years of age with 10 years of creditable service in a covered capacity; or has 25 years of creditable service. In the latter case, the worker is eligible for a reduced benefit.

Committee Amendment "A" (S-68) proposed to create the Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers for the purpose of studying whether corrections officers and mental health workers should uniformly be eligible to retire after 25 years of service without a reduction in benefits regardless of their age. Membership of the commission would include representatives of corrections officers and mental health workers and 5 Legislators. The commission would be authorized to submit legislation to the Second Regular Session of the 122nd Legislature by December 15, 2005.

Senate Amendment "A" to Committee Amendment "A" (S-311) proposed to expand the study to include a review of whether law enforcement officers in the Office of the Attorney General and the Department of the Secretary of State should be included in the 1998 Special Plan, and to change the name, membership and duties of the commission accordingly.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 758

An Act To Increase Retired Teachers' Health Insurance Benefits

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	OTP-AM	H-410

LD 758 proposed to increase the State's contribution for health insurance for retired educators from 40% to 100%, phased in over 3 years.

Committee Amendment "A" (H-410) proposed to phase in the increase to the State's contribution for health insurance for retired educators over 11 years and to add an appropriations and allocations section to the bill.

This bill was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

See also Public Law 2005, chapter 12, part X and Public Law 2005, chapter 457, part TT, which increase the state's contribution for health insurance for retired educators from 40% to 45% as of January 1, 2006.

Joint Standing Committee on Labor

LD 809

An Act To Facilitate Testimony in Workers' Compensation Proceedings

PUBLIC 99

<u>Sponsor(s)</u> PERRY A	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-146
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LD 809 proposed to authorize a nurse practitioner to submit sworn written testimony in Workers' Compensation Board proceedings, just as physicians, psychologists and chiropractors may do under current law.

Committee Amendment "A" (H-146) proposed to authorize a physician's assistant, in addition to a certified nurse practitioner, to submit sworn written testimony in Workers' Compensation Board proceedings.

Enacted law summary

Public Law 2005, chapter 99 authorizes nurse practitioners and physicians' assistants to submit sworn written testimony in Workers' Compensation Board proceedings, just as physicians, psychologists and chiropractors may do.

LD 840

An Act To Distribute Costs for the Funding of Pensions and Health Insurance for Retired Teachers

ONTP

<u>Sponsor(s)</u> MILLS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 840, a concept draft pursuant to Joint Rule 208, proposed to amend the current law to:

1. Reestablish the reserve fund for the retired teachers' health insurance program;
2. Include state and local school administrative unit contributions for the teacher retirement program as a cost component of the essential programs and services funding model in the Maine Revised Statutes, Title 20-A, chapter 606-B; and
3. Amend the funding mechanisms for the retired teachers' health insurance program and the teacher retirement program by requiring that local school administrative units fully fund these program costs and by including these local costs as part of the total costs recognized by the essential programs and services funding model in the Maine Revised Statutes, Title 20-A, chapter 606-B.

LD 878

An Act To Allow Assignment of Workers' Compensation Payments to 3rd Parties Providing Income Protection Benefits

ONTP

<u>Sponsor(s)</u> MAYO DUDLEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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Joint Standing Committee on Labor

LD 878 proposed to allow an employee who receives payment from an income protection plan or other contractual agreement for an injury to assign the employee's workers' compensation claim to the 3rd party providing payment under that income protection plan or contractual agreement. The bill proposed to limit the amount of assignment of the claim to the amount of compensation received under the income protection plan or other contractual agreement, and to specify that the assignment must be in writing and signed by the employee.

LD 879 **An Act To Ensure Equity in Appeals of Workers' Compensation Cases** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WESTON	ONTP MAJ OTP-AM MIN	

LD 879 proposed to allow the suspension of benefits awarded by decision of the Workers Compensation Board, pending appeal of that decision to the Law Court, if the benefits were awarded in the form of a sum certain that accrue to the date of the decree.

Committee Amendment "A" (S-92) which was the minority report of the committee and was not adopted, proposed to allow the suspension of benefits awarded in the form of a sum certain that accrue to the date of the decree pending a motion for findings of facts and conclusions of law in addition to pending an appeal to the Law Court.

LD 881 **An Act To Amend the Maine Workers' Compensation Act of 1992 To Facilitate Timely Independent Medical Examinations and Benefit Payments** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO	ONTP MAJ OTP-AM MIN	

LD 881 proposed to expand the number of qualified medical professionals who are eligible to perform independent and more timely medical assessments relating to workers' compensation medical benefits, in response to a recent case, *Lydon v. Sprinkler Services*, 841 A2d 793 (Me. 2004), in which the Law Court concluded that the Maine Revised Statutes, Title 39-A, section 312, subsection 2 precludes the use of a physician as an independent medical examiner if that physician has examined any employee, not merely the employee whose case is at issue. The bill proposed to specify that it is a physician who examines "the" employee, not any employee, at the request of an insurance company during the previous 52 weeks who is prohibited from serving as an independent medical examiner.

Committee Amendment "A" (S-81), which was the minority report of the committee and was not adopted, proposed to make a technical correction to the bill to clarify that a physician is disqualified from being an independent medical examiner only for a specific employee's case if the physician has previously examined that employee pursuant to the Maine Revised Statutes, Title 39-A, section 207 in the previous 52 weeks.

See also LD 302, which was enacted as Public Law 2005, chapter 24.

Joint Standing Committee on Labor

LD 896 **An Act To Encourage State Employees To Continue Employment** **ONTP**

<u>Sponsor(s)</u> PERRY J JACKSON	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 896 proposed to direct the Maine State Retirement System to amend its rules to clarify that a participant in the system who has reached normal retirement age may retire and begin receiving state retirement benefits and then may return to employment with the same employer while receiving those retirement benefits.

LD 901 **Resolve, To Create a New Pension System for Newly Hired Teachers and State Employees** **ONTP**

<u>Sponsor(s)</u> MILLS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 901 proposed to direct the Maine State Retirement System to develop a new uniform supplemental pension system for teachers from participating local districts and state employees hired after December 31, 2005 that would:

1. Make participation in the federal Social Security system mandatory;
2. Contain a defined benefit component that has an actuarial cost of 4% of payroll, with 3% allocated to the State and 1% to the employee;
3. Contain a defined benefit modeled on current law with a normal retirement age of 62 years but with the penalty for early retirement of 4% per year; and
4. Provide an optional benefit package of up to 6% of payroll with the State matching the employee's contribution on a 2-for-1 basis.

LD 912 **An Act Regarding Noncompete Agreements** **ONTP**

<u>Sponsor(s)</u> MOORE G	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 912 proposed to provide that an employer who requires an employee to enter into a noncompete agreement meet in person with the employee and review and disclose the terms of the agreement. The bill also proposed to allow the enforcement of a noncompete agreement only if the employee leaves within 3 months from the beginning of that employment.

Joint Standing Committee on Labor

LD 916

Resolve, Establishing the Commission on Maximum Hospital Charges for Workers' Compensation

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W STRIMLING	OTP-AM	H-338

LD 916 proposed to direct the Workers' Compensation Board to adopt rules that establish schedules of maximum charges for hospital charges.

Committee Amendment "A" (H-338) proposed to replace the bill with a resolve establishing the Commission on Maximum Hospital Charges for Workers' Compensation. The commission's duties would be to study information provided by the Maine Health Data Organization concerning actual payments made by private 3rd-party payors for hospital services and, based on that information, to determine whether a schedule of maximum charges for hospital services provided to workers' compensation claimants should be established and, if so, to recommend those maximum charges.

LD 943

An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey

PUBLIC 232

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER SMITH W	OTP-AM	S-177

LD 943 proposed to require the Department of Labor, Bureau of Labor Standards, as part of its annual determination of the prevailing hourly wage and benefits in the construction industry in Maine, to determine the prevailing hourly wage and benefits based upon each construction industry employer's annual peak employment period, which is defined as the 2-week period each year during which the employer employs the most employees. Under current law the survey is based upon an investigation of wages and benefits paid by employers during the 2nd and 3rd weeks of September.

Committee Amendment "A" (S-177) proposed to replace the bill. The amendment proposed to enable petitions to be filed with the Director of the Bureau of Labor Standards to institute a supplemental wage and benefit survey to determine a prevailing wage for a trade or occupation that has more than 10 workers, if that trade or occupation was not part of a previous wage and hour survey.

Enacted law summary

Public Law 2005, chapter 232 supplements current law requiring the Department of Labor, Bureau of Labor Standards to determine the prevailing hourly wage and benefits in the construction industry in Maine. The survey is based upon an investigation of wages and benefits paid by employers in the construction industry during the 2nd and 3rd weeks of September, annually. Chapter 232 enables petitions to be filed with the Director of the Bureau of Labor Standards within the Department of Labor to institute a supplemental wage and benefit survey to determine a prevailing wage for a trade or occupation that has more than 10 workers, if that trade or occupation was not part of a previous wage and hour survey.

Joint Standing Committee on Labor

LD 962

An Act To Codify Unallocated Law Regarding the Maine State Retirement System

PUBLIC 21

Sponsor(s)
TUTTLE

Committee Report
OTP

Amendments Adopted

LD 962 proposed to move certain language referring to the status of employees who have retired and returned to covered employment under the Maine State Retirement System from Public Law 2001, chapter 442, section 5 to the Maine Revised Statutes, Title 5, chapter 13, subchapter 2, which concerns the state employee health insurance program.

Enacted law summary

Public Law 2005, chapter 21 moves certain language referring to the status of employees who have retired and returned to covered employment under the Maine State Retirement System from Public Law 2001, chapter 442, section 5 to the Maine Revised Statutes, Title 5, chapter 13, subchapter 2, which concerns the State employee health insurance program.

LD 963

An Act To Set Standards for Electronic Methods Used for Wage Payment

PUBLIC 89

Sponsor(s)
HUTTON
SNOWE-MELLO

Committee Report
OTP-AM

Amendments Adopted
H-160

LD 963 proposed to clarify that an employer may pay employees through electronic transfers if there is no charge to the employees and must provide records of electronic transfers.

Committee Amendment "A" (H-160) proposed to make 2 changes to the bill to give effect to the bill's intent:

1. The amendment proposed to remove language in the bill that would have made electronic payment permissible only if agreed to by the employee, but to allow electronic payment as long as it does not create any additional cost for the employee or the employee has a choice of another means of payment that does not create any additional cost for the employee; and
2. The amendment proposed to restore language in current law authorizing the Director of Labor Standards to initiate routine inspections of businesses in addition to inspections based on written complaints to clarify that no change to the current authority is being made.

Enacted law summary

Public Law 2005, chapter 89 clarifies that an employer may pay an employee through electronic transfer if it does not create any additional cost for the employee or the employee has a choice of another means of payment that does not create any additional cost for the employee.

Joint Standing Committee on Labor

LD 978

**Resolve, Directing the Advisory Council on Tax-deferred
Arrangements To Study Deferred Retirement Option Programs**

RESOLVE 17

Sponsor(s)
LERMAN

Committee Report
OTP-AM

Amendments Adopted
H-145

LD 978 proposed to direct the Department of Administrative and Financial Services, Bureau of Human Resources, Division of Employee Health and Benefits to require that a carrier of a deferred compensation plan for state employees also provide a deferred retirement option program, referred to as "DROP," to state employees. Under a DROP, a state employee retires and is rehired, and elects to deposit all or a part of the equivalent of the employee's retirement contributions into a pre-tax account for 3 to 5 years. The bill proposed to direct the Division of Employee Health and Benefits to adopt rules by January 1, 2006 to implement these programs, and to direct the Maine State Retirement System to adopt rules allowing state employees who participate in the retirement system and have reached normal retirement age to elect to enroll in a DROP.

Committee Amendment "A" (H-145) proposed to replace the bill with a resolve directing the Advisory Council on Tax-deferred Arrangements to study whether it is in the interest of the State and of employees and retirees who are members of the Maine State Retirement System to make available a deferred retirement option program as part of the deferred compensation programs offered to these employees and retirees. The resolve also proposed to set a deadline of January 15, 2006 for a report to the Joint Standing Committee on Labor including the Advisory Council on Task-deferred Arrangements's findings, recommendations and suggested legislation, to direct that the Department of Administrative and Financial Services provide administrative support for the study within existing resources and to give the Joint Standing Committee on Labor authority to report out legislation concerning the study to the Second Regular Session of the 122nd Legislature.

Enacted law summary

Resolve 2005, chapter 17 directs the Advisory Council on Tax-deferred Arrangements to study whether it is in the interest of the State and of employees and retirees who are members of the Maine State Retirement System to make available a deferred retirement option program as part of the deferred compensation programs offered to these employees and retirees. The resolve also sets a deadline of January 15, 2006 for a report to the Joint Standing Committee on Labor including the Advisory Council on Task-deferred Arrangements's findings, recommendations and suggested legislation, directs that the Department of Administrative and Financial Services provide administrative support for the study within existing resources and gives the Joint Standing Committee on Labor authority to report out legislation concerning the study to the Second Regular Session of the 122nd Legislature.

LD 995

**An Act To Conform Maine Employment Security Law with the
Federal SUTA Dumping Prevention Act of 2004**

PUBLIC 120

Sponsor(s)
STRIMLING
HALL

Committee Report
OTP-AM

Amendments Adopted
S-97

Joint Standing Committee on Labor

LD 995 proposed to help detect businesses with high unemployment insurance tax rates resulting from a high volume of layoff activity setting up shell companies and transferring their employees to the shell companies to get lower, new-employer unemployment insurance tax rates and deters those businesses from doing so. Federal legislation to address this type of unemployment tax rate manipulation was recently enacted, and the bill was designed to keep Maine law in compliance with federal law.

Committee Amendment "A" (S-97) proposed to incorporate language that was inadvertently omitted from the bill.

Enacted law summary

Public Law 2005, chapter 120 helps detect businesses with high unemployment insurance tax rates resulting from a high volume of layoff activity that set up shell companies and transfer their employees to the shell companies to get lower, new-employer unemployment insurance tax rates, and deters those businesses from doing so. This law keeps Maine law in compliance with federal law that was recently enacted to address this type of unemployment tax rate manipulation.

LD 996 Resolve, Establishing the Commission To Study Medical Expenses ONTP
Under the Maine Workers' Compensation Act of 1992

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN	ONTP	

LD 996 proposed to establish the Commission to Study Medical Expenses Under the Maine Workers' Compensation Act of 1992, which would be required to submit its report to the Second Regular Session of the 122nd Legislature by November 2, 2005.

LD 1005 Resolve, To Establish an Apprenticeship Program for Shipbuilders ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SULLIVAN	ONTP	
PINGREE		

LD 1005 proposed to direct the Department of Labor to develop an apprenticeship program for shipbuilders and to report on its progress with any proposed legislation to the Joint Standing Committee on Labor no later than December 7, 2005.

Joint Standing Committee on Labor

LD 1021 **An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1021 proposed to implement the unanimous recommendations of the Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters.

Part A proposed to create a state subsidy for the cost of retiree health insurance for municipal and county law enforcement officers and firefighters who retire from certain Maine State Retirement System retirement plans. To pay for the subsidy, the bill proposed to create a dedicated account funded from 2 sources: a 0.50% premium tax on certain types of property and casualty insurance policies, including homeowners insurance and commercial and personal car insurance, and a contribution of 1.5% of compensation from active municipal and county law enforcement officers and firefighters who participate in certain retirement plans and would be likely to be eligible for the subsidy upon retirement. Officers and firefighters would be eligible for the subsidy only if they have retired from a Maine State Retirement System retirement plan that provides for retirement after 25 years of service, with a benefit of at least 50% of average final compensation and a cost-of-living adjustment, or a better Maine State Retirement System retirement plan. The bill proposed to require the Department of Administrative and Financial Services to report on revenue and funding of the subsidy to the Legislature in 2011, and to require the Bureau of Insurance in the Department of Professional and Financial Regulation to submit a report to the Second Regular Session of the 122nd Legislature setting forth options for collecting contributions toward the cost of the retiree health insurance from businesses that do not purchase insurance for the types of property and casualty risks described in the bill.

Part B proposed to allow state, county and municipal law enforcement officers and firefighters who change employers to purchase portability of their retirement benefits, if they are changing retirement plans and the plan to which they are moving does not provide portability. Portability would allow a person to count all or a portion of years of service from an earlier retirement plan when calculating a benefit or meeting the years-of-service requirement in a later retirement plan, and to count compensation from all years of service in determining average final compensation, one of the factors in calculating a retirement benefit. This provision would apply only to persons moving among the types of Maine State Retirement System retirement plans described above.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 1044 **An Act To Care for Families** **PUBLIC 455**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM MAJ	S-280
RICHARDSON J	ONTP MIN	S-335 COURTNEY
		S-347 RAYE

LD 1044 proposed to require an employer to allow an employee who receives paid leave, such as sick or vacation time, to use that time to care for an ill immediate family member.

Joint Standing Committee on Labor

Committee Amendment "A" (S-280) proposed to do the following:

1. Limit application of the bill to employers with 15 or more employees;
2. Narrow and clarify the definitions of "immediate family member" and "paid leave";
3. Allow employers to limit an employee's use of paid leave for care of a family member to 40 hours per year;
4. Allow employers to eliminate or modify paid leave benefits;
5. Establish penalties of \$50 for a first violation, \$100 for a 2nd violation and \$250 for each subsequent violation; and
6. Clarify certain other provisions of the bill.

Senate Amendment "A" to Committee Amendment "A" (S-335) proposed to remove the specified penalties for a violation by the employer of the family sick leave provisions.

Senate Amendment "C" to Committee Amendment "A" (S-347) proposed to change the application of the bill from employers with 15 or more employees to employers with 25 or more employees.

Enacted law summary

Public Law 2005, chapter 455 requires an employer with 25 or more employees to allow an employee who receives paid leave, such as sick or vacation time, to use that time to care for an ill immediate family member. The law allows an employer to limit an employee's use of paid leave for care of a family member to 40 hours per year, and to eliminate or modify paid leave benefits.

LD 1050

An Act To Promote Enforcement of Labor Laws Affecting Employers

CARRIED OVER

Sponsor(s)
EDMONDS
SMITH W

Committee Report

Amendments Adopted

LD 1050 proposed to require the Attorney General to investigate violations of the labor laws, including wage and hour violations and unemployment fraud, and prosecute violators. The bill proposed to specify that, if the Attorney General determines that an employer has violated a labor law, the Attorney General must investigate all the employees and subcontractors of that employer.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

Joint Standing Committee on Labor

LD 1054 **Resolve, Directing the Maine State Retirement System To Amend Its Rules To Clarify That Officers of the State Police Who Reach Retirement Age May Continue Working and Receiving Retirement Benefits** **ONTP**

<u>Sponsor(s)</u> HOBBINS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1054 proposed to direct the Maine State Retirement System to amend its rules to clarify that a state police officer who is a participant in the system and has reached normal retirement age may retire and begin receiving state retirement benefits and then may return to employment with the same employer while receiving those retirement benefits.

LD 1080 **An Act To Reimburse Allan Wyman for Contributions to the Retired Teachers' Health Insurance Plan** **INDEF PP**

<u>Sponsor(s)</u> MILLS J WOODCOCK		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-149
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LD 1080 proposed to direct the State to reimburse Allan Wyman for the contribution the State would have made had Mr. Wyman not mistakenly made his payments towards his retiree health insurance premium directly to the insurer.

Committee Amendment "A" (H-149) proposed to add an appropriations and allocations section.

LD 1123 **An Act To Promote Stability in Labor Relations** **PUBLIC 324**

<u>Sponsor(s)</u> DUPLESSIE STRIMLING		<u>Committee Report</u> OTP-AM MAJ ONTP MIN		<u>Amendments Adopted</u> H-492
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LD 1123 proposed to provide that the terms and conditions of an expired collective bargaining agreement remain in effect until a new contract is executed.

Committee Amendment "A" (H-492) proposed to replace the bill. The amendment proposed to provide that, for an expired collective bargaining agreement signed after October 1, 2005, the grievance arbitration provisions of the collective bargaining agreement that concern what is commonly known as the "static status quo" remain in effect until a new contract is executed. The amendment proposed to give the Maine Labor Relations Board authority over disputes concerning the application of the static status quo doctrine, as well as rulemaking authority to implement the amendment's purposes. The amendment further proposed to provide that a grievance appealed to arbitration is subject exclusively to arbitration, and that grievance arbitration would be stayed pending resolution of a dispute over application of the static status quo doctrine by the Maine Labor Relations Board.

Joint Standing Committee on Labor

Enacted law summary

Public Law 2005, chapter 324 provides that, for an expired collective bargaining agreement signed after October 1, 2005, the grievance arbitration provisions of the collective bargaining agreement that concern what is commonly known as the "static status quo" remain in effect until a new contract is executed. The law gives the Maine Labor Relations Board authority over disputes concerning the application of the static status quo doctrine, as well as rulemaking authority to implement the amendment's purposes. The law further provides that a grievance appealed to arbitration is subject exclusively to arbitration, and that grievance arbitration will be stayed pending resolution of a dispute over application of the static status quo doctrine by the Maine Labor Relations Board.

LD 1143 **An Act To Protect Workers in the Mortgage and Mortgage Refinance Services Fields** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LERMAN	ONTP	

LD 1143 proposed to specify that salespeople working for mortgage companies are not exempt from the laws governing minimum wages.

LD 1170 **An Act To Exempt Fire Departments from Biweekly Pay Requirements for Volunteer Firefighters** **PUBLIC 126**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE COLLINS	OTP-AM	S-113

LD 1170 proposed to allow a municipal fire department to pay volunteer firefighters on a semiannual basis, instead of at least every 16 days as required by current law.

Committee Amendment "A" (S-113) proposed to clarify that fire departments may pay volunteer firefighters every 6 months or more frequently.

Enacted law summary

Public Law 2005, chapter 126 clarifies that fire departments may pay volunteer firefighters every 6 months or more frequently.

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LD 1197 **An Act To Allow a One-time Change in Benefit Payment Option
Selection under the Maine State Retirement System** **ONTP**

<u>Sponsor(s)</u> MILLER MAYO	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1197 proposed to provide that the recipient of a service retirement benefit under the Maine State Retirement System who has elected an optional method of payment may exercise at any time a one-time option to select a different optional method of payment.

LD 1214 **An Act To Require Inspectors from the Department of Labor,
Bureau of Labor Standards To Provide Advance Notice of
Inspections** **ONTP**

<u>Sponsor(s)</u> CLARK	<u>Committee Report</u> ONTP MAJ OTP MIN	<u>Amendments Adopted</u>
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LD 1214 proposed to require the Department of Labor, Bureau of Labor Standards to provide notice to an employer at least 72 hours before the bureau inspects a workplace of the employer. This requirement would not apply to emergency inspections. The bill also proposed to eliminate the prohibition on giving advance notice of an inspection without authority from the Director of the Bureau of Labor Standards.

LD 1223 **Resolve, Directing the Maine State Retirement System To Support
the Federal Public Servant Retirement Protection Act** **ONTP**

<u>Sponsor(s)</u> BISHOP DOW	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1223 proposed to require the Executive Director of the Maine State Retirement System to work cooperatively with the United States Social Security Administration to provide support of the federal Public Servant Retirement Protection Act.

LD 1236 **Resolve, To Establish the Study Commission Regarding Liveable
Wages** **RESOLVE 128**

<u>Sponsor(s)</u> LERMAN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-232 S-384 GAGNON
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LD 1236 proposed to establish the Study Commission Regarding Liveable Wages.

Committee Amendment "A" (H-232) proposed to change the membership of the study commission, so that the commission would include the following: 2 Senators who are from different parties and are members of the Joint Standing Committee on Labor; 3 members of the House of Representatives who also are members of the Joint Standing Committee on Labor and of whom no more than 2 are of the same party; and one representative each of the business community, municipal government, organized labor and an advocacy organization for the poor or for women. Additionally, the amendment proposed to include the Commissioner of Labor, the Commissioner of Health and Human Services and the Commissioner of Economic and Community Development as ex officio, nonvoting members of the commission. The amendment also proposed to include in the commission's duties an examination of the economic impact to the State of a liveable wage. The amendment also proposed to set August 1, 2005 as the latest date on which the commission must convene, and to clarify that the Legislative Council shall provide necessary staffing services.

Senate Amendment "B" to Committee Amendment "A" (S-213) proposed to strike the emergency preamble and emergency clause from the resolve and adjust the commission's initial meeting date and final reporting date accordingly. The amendment also proposed to remove the requirement that legislative members appointed to the commission be members of the Joint Standing Committee on Labor and conform the resolve with the Standards for Legislative Studies adopted by the Legislative Council and the Joint Rules.

Enacted law summary

Resolve 2005, chapter 128 establishes the Study Commission Regarding Liveable Wages. Members of the commission include: 2 Senators who are from different parties; 3 members of the House of Representatives of whom no more than 2 are of the same party; and one representative each of the business community, municipal government, organized labor and an advocacy organization for the poor or for women. The Commissioner of Labor, the Commissioner of Health and Human Services and the Commissioner of Economic and Community Development serve as ex officio, nonvoting members of the commission.

LD 1238

An Act To Ensure Compliance with Safety Regulations

**DIED IN
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINEAU	OTP-AM MAJ	
BRYANT B	ONTP MIN	

LD 1238 was intended to protect public safety by proposing to require inspections of certain industrial and commercial facilities that use potentially hazardous substances, equipment and machinery to ensure that operations will be undertaken properly. The bill proposed to prevent the initiation or resumption of operation of any facility that employs more than 250 persons, uses hazardous substances or hazardous equipment or machinery in its operations and is being operated by an inexperienced workforce. The operator of such a facility would be required to notify the Department of Labor, Bureau of Labor Standards of the impending initiation or resumption of operation, and the Bureau of Labor Standards would schedule and conduct an inspection of the facility and consult with the employees of the facility to ensure that the facility may safely initiate or resume operation. The bill proposed to provide opportunity for public comment and input from local government and the facility's employees to ensure adequate information is obtained about potential hazards caused by the facility's operation. The bureau would cooperate with the State Emergency Response Commission and local emergency planning

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committees to ensure that local emergency response plans are understood and followed in the event of an emergency at the facility. Finally the bill proposed to prohibit the facility from beginning or resuming operation until it had been inspected by the Bureau of Labor Standards and found to be safe for operation.

Committee Amendment "A" (H-443) proposed to remove the prohibition on initiation or resumption of operation of a covered facility until inspection by the Department of Labor, Bureau of Labor Standards is complete. In place of that prohibition, the amendment proposed to require that a covered facility cease operations if it has been found deficient through the bureau's inspection and to allow the facility to resume operations only after the deficiencies have been corrected. This amendment also proposed to add an appropriations and allocations section.

LD 1247 **An Act To Modify Labor Laws with Regard to Minor Workers** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON	ONTP MAJ	
COWGER	OTP-AM MIN	

LD 1247 proposed to raise the maximum number of hours a 16-year-old or 17-year-old may work during a school week from 20 hours to 35 hours and to raise the number of hours a 16-year-old or 17-year-old may work during a school day from 4 hours to 5 hours. The bill proposed to limit a minor whose overall grade average is below a C or who has an average grade in any class below a C- to working no more than 20 hours during a school week and only during the hours of 3:00 p.m. to 8:00 p.m. on a school day. A secondary school would be required to notify every student whose work schedule is limited under this provision. The bill proposed to allow a minor to return to normal working conditions if the school administrator determines the minor's overall grade average has risen to at least a C and that no average grade for any class is below C-. Current law requires employers of minors under 18 years of age to keep a time book or record on every minor working for the employer. This bill proposed to require the employer to send a copy of this time book to the minor's secondary school on a monthly basis, and to eliminate the provision that does not count the time a minor works in an approved vocational cooperative education program towards the maximum number of hours the minor may work during a school day or week.

Committee Amendment "A" (H-409), which was the minority report of the committee and was not adopted, proposed to replace the bill. The amendment proposed to raise the limit on work hours for a 17-year-old while school is in session from 20 hours per week to 30 hours per week, if the 17-year-old provides proof to the employer of achievement of an overall B average for the prior semester. The amendment also proposed to raise the limit on work hours for 17-year-olds while school is in session from 4 hours per day to 6 hours per day. Finally, the amendment proposed to add an appropriations and allocations section to the bill.

LD 1269 **An Act To Change the Retirement Eligibility Requirements for
Investigators in the Office of the Attorney General and the
Department of the Secretary of State** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	ONTP	
FARRINGTON		

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LD 1269 proposed to allow investigators in the Office of the Attorney General or Department of the Secretary of State to elect to participate in the 1998 Special Plan of the Maine State Retirement System. Under that plan, a person may retire at 55 years of age with 10 years of creditable service, or may retire before 55 years of age with 25 years of creditable service and a reduced benefit.

See also LD 748, which was carried over.

LD 1276 **An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage Is Set** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON MARTIN		

LD 1276 proposed to prohibit the Department of Labor from certifying to the United States Department of Labor that no U.S. citizens are qualified for or willing to fill a job opening in a forestry occupation, for the purpose of allowing an employer to hire a foreign worker to fill that job opening under what is commonly known as an "H-2B visa," if the job would require the worker to use the worker's own equipment and if the U.S. Department of Labor's Division of Foreign Labor Certification has not established a prevailing wage for workers performing that job using the workers' own equipment.

Committee Amendment "B" (H-445) proposed to add a provision to prohibit an employer from making a false representation to a government entity in an application to hire a foreign worker through a procedure commonly known as an "H-2B visa," or in any supporting documentation or statements. The amendment proposed to set fines for violations as follows: \$1,000 but not more than \$5,000 for a first violation; \$5,000 but not more than \$20,000 for a 2nd offense within 3 years; and \$10,000 but not more than \$50,000 for a 3rd or subsequent violation within 3 years of 2 or more prior violations. The amendment also proposed to grant enforcement authority to the Department of Labor, Bureau of Labor Standards and authority to adopt routine technical rules to carry out its purposes.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 1329 **Resolve, Directing the Workers' Compensation Board To Consider Adoption of the "Guides to the Evaluation of Permanent Impairment," 5th Edition, in Assessing Workers' Compensation Injuries** **RESOLVE 53
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J SMITH W	OTP-AM	S-189

LD 1329 proposed to require the Workers' Compensation Board to use the 5th edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" to assess impairment relating to injuries involving the spinal column.

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Committee Amendment "A" (S-189) proposed to replace the bill with a resolve directing the Workers' Compensation Board to consider adoption of the 5th edition of "Guides to the Evaluation of Permanent Impairment" as impairment guidelines and to report to the Joint Standing Committee on Labor by January 15, 2006 its determination of whether the 5th edition should be adopted and, if so, whether it has been adopted by board rule. The resolve also proposed to grant the committee authority to report out legislation to the Second Regular Session of the 122nd Legislature related to the board's report.

Enacted law summary

Resolve 2005, chapter 53 directs the Workers' Compensation Board to consider adoption of the 5th edition of "Guides to the Evaluation of Permanent Impairment" as impairment guidelines and to report to the Joint Standing Committee on Labor by January 15, 2006 its determination of whether the 5th edition should be adopted and, if so, whether it has been adopted by board rule. The resolve also grants the committee authority to report out legislation to the Second Regular Session of the 122nd Legislature related to the board's report.

Resolve 2005, chapter 53 was finally passed as an emergency measure effective May 26, 2005.

LD 1346 An Act to Require Employers and Employees to Provide a 2-Week CARRIED OVER Notice before Terminating Employment

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TWOMEY BRYAND B	OTP-AM ONTP	

LD 1346 proposed to require all employees to give 2 weeks' notice prior to quitting and employers, including the State and the Legislature, to give 2 weeks' notice prior to terminating an employee. The bill proposed that an employee who quits in violation of this requirement without reasonable cause would be subject to a forfeiture of one week's pay and that an employer who fails to provide 2 weeks' notice without reasonable cause would be required to provide the employee with 2 weeks' pay. Current law allows an employer and employee in a manufacturing or mechanical business to contract to give each other one week's notice of intention to quit or terminate employment.

Committee Amendment "A" (H-376), the majority report of the Joint Standing Committee on Labor, proposed to replace the bill. The amendment proposed to specify that a partisan legislative employee must be provided with at least a 2-week notice prior to being discharged, unless the termination is for reasonable cause. This amendment was not adopted.

LD 1346 was subsequently committed to the Joint Select Committee on Joint Rules and was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

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LD 1353

**An Act To Allow Certain School Employees To Collect
Unemployment**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	ONTP	

LD 1353 proposed to make a bus driver or janitorial staff worker in a public school eligible to collect unemployment benefits in between 2 academic years, even if the driver or staff worker has received written assurance that the driver or staff worker will be employed by the school in that same position the 2nd academic year.

LD 1361

**An Act To Refine and Study Substance Abuse Testing Procedures
and Treatment**

PUBLIC 443

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A MARTIN	OTP-AM	H-428 S-386 GAGNON

LD 1361 proposed to do the following:

1. Allow for post-accident testing when death, serious injury or substantial property damage has occurred, separate and apart from probable cause or random testing;
2. Permit the employer to require, request or suggest subsequent follow-up testing of an employee returning to work during the 18 months after the date of the employee's return to work;
3. Allow for point-of-collection screening tests of employees. Confirmation of positive tests would still be required in the existing manner;
4. Amend the exclusion of a single work-related accident as probable cause for testing when circumstances surrounding a single work-related accident may give rise to probable cause to test, even if the harm from the accident is not so severe as to warrant general post-accident testing;
5. Set reasonable limits on the currently open-ended shifting of uninsured treatment or rehabilitation costs, based on an employee's length of service and incorporates changes recognizing that outpatient treatment is often the recommended approach;
6. Permit a program of follow-up testing after return to work following a confirmed positive test, as recommended by a rehabilitation or treatment provider. The statutes currently permit only a single follow-up test in the period between 90 days and one year after the employee's positive prior test. This change would permit a program of follow-up testing in the 12 months following a confirmed positive test, under circumstances similar to those now used for drivers of commercial motor vehicles under the Federal Motor Carrier Safety Regulations; and
7. Amend the provisions requiring return of an employee with a confirmed positive test result to a safety-sensitive position and insulating the employee from any financial consequences. The existing law requires

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that, if due to a perceived safety hazard an employee is not immediately returned to the safety-sensitive position, the employer must nonetheless pay the rate of the safety-sensitive job even though that job is not being performed. This change would provide employers greater flexibility to temporarily reassign such persons to other duties at the rates of pay corresponding to the new positions. As soon as the employee's rehabilitation or treatment provider concludes the unreasonable safety hazard has abated, the employee must be restored to full pay.

Committee Amendment "A" (H-428) proposed to replace the bill. The amendment proposed to specify that the results of a point of collection substance abuse screening test must be provided to the employee who is the subject of the test immediately, regardless of the preliminary result, and may not be released to the employer until after results of a confirmation test have been determined or until after the time it would have taken for results of a confirmation test to be determined if one had been performed. The amendment further proposed to specify that the results of a confirmation test must be provided immediately to both the employee and employer.

Additionally, the amendment proposed to direct the Department of Labor to establish a task force on substance abuse testing and treatment and details the proposed duties, membership and reporting obligations of the task force.

Senate Amendment "A" to Committee Amendment "A" (S-386) proposed to bring the bill into conformity with the Joint Rules and Standards for Legislative Studies adopted by the Legislative Council.

Enacted law summary

Public Law 2005, chapter 443 specifies that the results of a point of collection substance abuse screening test must be provided to the employee who is the subject of the test immediately, regardless of the preliminary result. Chapter 443 also states that the results of a point of collection screening test may not be released to the employer until after results of a confirmation test have been determined or until after the time it would have taken for results of a confirmation test to be determined if one had been performed. The law further specifies that the results of a confirmation test must be provided immediately to both the employee and employer.

Additionally, chapter 443 directs the Department of Labor to establish a task force on substance abuse testing and treatment and details the duties, membership and reporting obligations of the task force.

LD 1384

**An Act To Assist Businesses To Retain Seasonal Employees and
Reduce the Burden on the Bureau of Unemployment
Compensation**

ONTP

Sponsor(s)
BISHOP
DOW

Committee Report
ONTP

Amendments Adopted

LD 1384 proposed to allow an employer to lay off an employee for up to 8 weeks without the employee having to meet the current job search requirements, better enabling a seasonal employer to retain trained employees while recapturing a portion of the cost of the benefits with a higher rate due to the employer's experience rating record. Current Department of Labor rules waive the work search requirement for unemployment benefits for a laid off employee if the employer gives the employee a recall notice guaranteeing that the employee will be rehired within 6 weeks, saving the employee and the Department of Labor, Bureau of Unemployment Compensation the burden

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of the employee's unnecessarily having to look for other work and report weekly on that search to the bureau. Current law also bases the unemployment contribution for employers on the individual employer's past experience rating record.

LD 1398 **An Act To Align Federal and State Child Labor Laws** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	ONTP	
COLLINS		

LD 1398 proposed to direct the Department of Labor, Bureau of Labor Standards to adopt rules that conform to the federal Fair Labor Standards Act of 1938 and accompanying regulations that govern employment of minors under 18 years of age, and to prohibit employment of minors except in accordance with these rules. The bill also proposed to direct the bureau to readopt the rule prohibiting minors from being employed in a place that has nude entertainment and to specify that these rules are routine technical rules.

LD 1410 **An Act To Require That the Maine Unemployment Insurance Commission Maintain Its Principal Office in the Augusta Area** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	ONTP	
SNOWE-MELLO		

LD 1410 proposed to require that the Maine Unemployment Insurance Commission maintain its principal office in the Augusta area.

LD 1413 **An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law** **PUBLIC 228**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER-SIMPS	OTP-AM	H-348

LD 1413 proposed to expand the remedies available to employees alleging violations of the Maine family medical leave requirements to equal those available under federal law. These remedies include back pay, interest, attorney's fees and costs, liquidated double damages and equitable remedies.

Committee Amendment "A" (H-348) proposed to remove the burden from an employer to prove that the employer has acted in good faith in order to avoid double damages, and instead to place the burden on the employee to prove that the violation was willful for the employee to recover double damages.

Enacted law summary

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Public Law 2005, chapter 228 expands the remedies available to employees alleging violations of the Maine family medical leave requirements to equal those available under federal law. The remedies include back pay, interest, attorneys' fees and costs, liquidated double damages and equitable remedies. Additionally, the law places the burden on the employee to prove that the violation was willful for the employee to recover double damages.

LD 1419

An Act To Amend the Laws Regarding Certain Employment-related Matters

PUBLIC 119

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W STRIMLING	OTP-AM	H-233

LD 1419 proposed to insert a reference to the existing statutory provision that governs payment for services of a member of the State Board of Arbitration and Conciliation in the laws governing leaves of absence. That provision requires the costs to be shared by the parties. The bill also proposed to provide that wages paid to election officials and election workers do not have to be reported for purposes of the laws governing unemployment compensation until they exceed \$1,000. Finally, LD 1419 proposed to remove the exemption for wages earned as a volunteer emergency medical services worker in the definition of total and partial unemployment in the laws governing unemployment compensation.

Committee Amendment "A" (H-233) proposed to delete section 3 of the bill, which would have removed the exemption for wages earned as a volunteer emergency medical services worker in the definition of total and partial unemployment in the laws governing unemployment compensation.

Enacted law summary

Public Law 2005, chapter 119 inserts a reference to the statutory provision that governs payment for services of a member of the State Board of Arbitration and Conciliation in the laws governing leaves of absence. That provision requires the costs to be shared by the parties. The law also provides that wages paid to election officials and election workers do not have to be reported for purposes of unemployment compensation until they exceed \$1,000.

LD 1470

Resolve, Directing the Judicial Compensation Commission to Examine Allowing Judges To Receive Service Credit for Prior Legislative Service

RESOLVE 86

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM	H-427

LD 1470 proposed to allow a member of the Maine Judicial Retirement System service credit for time spent as a Legislator as long as the member made payments to the Maine Legislative Retirement System for service as a Legislator.

Committee Amendment "A" (H-427) proposed to replace the bill with a resolve directing the Judicial Compensation Commission to examine whether a judge or justice should receive service credit in the Maine

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Judicial Retirement System for time spent as a Legislator if the judge or justice made payments to the Maine Legislative Retirement System during that legislative service and to report its findings and recommended legislation to the joint standing committees of the Legislature having jurisdiction over labor and judiciary matters by December 1, 2006.

Enacted law summary

Resolve 2005, chapter 86 directs the Judicial Compensation Commission to examine whether a judge or justice should receive service credit in the Maine Judicial Retirement System for time spent as a Legislator if the judge or justice made payments to the Maine Legislative Retirement System during that legislative service. The resolve also directs the commission to report its findings and recommended legislation to the joint standing committee of the Legislature having jurisdiction over labor issues.

**LD 1476 An Act To Provide an Annual Cost-of-living Adjustment for DIED BETWEEN
Persons Receiving Workers' Compensation Benefits for Total HOUSES
Incapacity**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM MAJ	
PINEAU	ONTP MIN	

LD 1476 proposed to require an annual adjustment to benefits for those receiving workers' compensation because of total incapacity.

Committee Amendment "A" (S-176) proposed to apply the cost-of-living adjustment only to those injuries that occur after September 30, 2005.

LD 1486 An Act To Amend the Law Allowing Legislative Staff To Unionize ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKANE	ONTP	
DAVIS P		

LD 1486 proposed to require the collective bargaining agent of legislative employees to be an independent labor organization, which is a labor organization that neither represents employees outside of the Maine Legislature nor is affiliated with an organization that represents employees outside of the Maine Legislature.

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LD 1570

An Act To Require Random Drug Testing for Emergency Vehicle Operators

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLOUGH COURTNEY	ONTP	

LD 1570 proposed to require random substance abuse testing for emergency vehicle operators. The testing procedures proposed to be used are defined in the Maine Revised Statutes, Title 26, section 683.

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LD 1604 An Act To Restructure the Unfunded Liability of the Maine State Retirement System CARRIED OVER

<u>Sponsor(s)</u> STRIMLING		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1604, a concept draft pursuant to Joint Rule 208, proposed to refinance a portion of the Maine State Retirement System pension debt through the bond market.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 1628 An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects CARRIED OVER

<u>Sponsor(s)</u> PATRICK BRYANT B		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1628 proposed to require that a contractor or subcontractor entering into a contract for a public work on or after July 1, 2007 that is for \$10,000 or more provide documentation demonstrating that all employees working on that project have completed a construction safety training course, no shorter than 10 hours in duration, approved by the United States Occupational Safety and Health Administration. The bill also proposed to specify that, in addition to fines provided in existing law, violation of these requirements may result in removal of employees for whom the required documentation is not provided, as well as cancellation or enforcement of performance of the contract.

Committee Amendment "A" (H-491) proposed to:

1. Eliminate the penalties of removal of workers and cancellation of the contract;
2. Allow the Director of the Bureau of General Services within the Department of Administrative and Financial Services to deduct penalties assessed to contractors and subcontractors from contract payments for public works;
3. Afford contractors and subcontractors 30 days to correct a failure to provide the required training or, if the contractor or subcontractor does not have a certified trainer on staff, the longer of 30 days and until the date of the next available and appropriate training by the Department of Labor that occurs within a 2-hour drive of the work site; and
4. Allow the Director of General Services to refuse to release plans and specifications to a contractor or subcontractor for the purpose of bidding on a future project if the contractor or subcontractor has violated the training requirements.

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House Amendment "A" to Committee Amendment "A" (H-645), which was not adopted, proposed to require that one employee from each company at a work site must have successfully completed a course in construction safety approved by the United States Occupational Safety and Health Administration.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 1652 An Act To Establish a Fair System for the Protection of Volunteer Firefighters' Employment PUBLIC 296

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE	OTP-AM	H-493

LD 1652 proposed to protect a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency such as a fire, hazardous or toxic waste spill or other situation to which the fire department is called to respond. The bill proposed to allow written agreements between employers and employees to supersede the terms of the proposed law. The bill further proposed to apply only to employers with 5 or more full-time-equivalent employees and to allow an employer to designate an employee as "essential" and therefore not subject to the employment protections.

Committee Amendment "A" (H-493) proposed to eliminate the limitation on application of the bill to employers with 5 or more full-time-equivalent employees. The amendment also proposed to clarify that:

1. A volunteer firefighter is not required to report to work immediately after an emergency, but rather as soon as reasonably possible after being released from an emergency;
2. A volunteer firefighter must, at the employer's request, provide a statement from the fire chief documenting the time of release from the emergency call; and
3. An employer may designate an employee as essential when the absence of the employee would cause disruption of the employer's business.

Enacted law summary

Public Law 2005, chapter 296 protects a volunteer firefighter from being discharged or disciplined by an employer on the grounds that the volunteer firefighter arrives late or does not arrive at work because the volunteer firefighter is responding to an emergency such as a fire, hazardous or toxic waste spill or other situation to which the fire department is called to respond. The law also allows written agreements between employers and employees to supersede its terms. Additionally, the law clarifies that a volunteer firefighter is not required to report to work immediately after an emergency, but rather as soon as reasonably possible after being released from an emergency, and specifies that a volunteer firefighter must, at the employer's request, provide a statement from the fire chief documenting the time of release from the emergency call. Finally, the law allows an employer to designate an employee as essential when the absence of the employee would cause disruption of the employer's business.

Joint Standing Committee on Labor

LD 1654

An Act To Prevent the Loss of Jobs through Outsourcing

CARRIED OVER

Sponsor(s)
ROTUNDO

Committee Report

Amendments Adopted

LD 1654, a concept draft pursuant to Joint Rule 208, proposed to enact a variety of measures that would serve to prevent or reduce the loss of jobs in the State through outsourcing.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.